

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 3/16/2021

DAMOND BAILEY,

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK CITY
POLICE DEPARTMENT, NEW YORK CITY POLICE
OFFICERS JOHN DOES NUMBERS 1-6, and NEW
YORK CITY POLICE OFFICERS JANE DOES 1-6,
individually and in their official capacities,

Defendants.

1:19-cv-01488-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

The Court held a hearing in this matter on March 16, 2021, to conduct an inquiry into Plaintiff's competency and whether appointment of a guardian ad litem is appropriate under Federal Rule of Civil Procedure 17(c)(2). [See ECF Nos. 47, 49.] Plaintiff, an adult who is proceeding *pro se*, appeared personally accompanied by Ms. Tiasha Jenkins, his mother. Counsel for Defendants also appeared.

At the hearing, the Court explained Plaintiff can either attempt to find pro bono counsel or opt to proceed with a competency hearing in light of the letter from Plaintiff's mother advising that he suffers from mental health issues. The Court further advised Plaintiff that if he elects to proceed with a hearing on competency and the appointment of Ms. Jenkins as a guardian ad litem, the Court can only make requisite findings based on evidence from medical professional, which the Court does not have at present. In addition, that Court advised that even if Plaintiff is not competent and unable to prosecute his case, there are issues with respect to appointment of Ms. Jenkins as guardian ad litem, namely that she cannot represent her son and appear on his behalf *pro se*, but must retain counsel to represent his interests. Accordingly, the Court adjourned the

hearing, including consideration of Defendants' pending motion to dismiss for failure to prosecute, to give Plaintiff a final opportunity to attempt to retain counsel or advise the Court whether he wishes to proceed with a competency hearing.

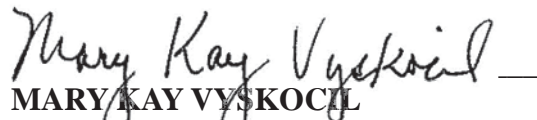
In accordance with matters discussed on the record at the hearing, IT IS HEREBY ORDERED:

- All parties shall appear for a further hearing in this matter on April 27, 2021, at 2:00 PM. The hearing will be conducted by videoconferencing. The Court will provide an access link to the parties and post dial-in information on the docket in advance of the hearing.
- On or before April 20, 2021, Plaintiff shall file a letter advising the Court whether he has retained counsel or whether he will proceed *pro se* and wishes to proceed with a competency hearing.
 - Information and resources with respect to proceeding *pro se* may be found on the Court's website at <https://www.nysd.uscourts.gov/prose>.
 - If Plaintiff elects to proceed with a competency hearing, he must provide documentary evidence from a medical doctor or licensed mental health professional opining on his competency and his ability to protect his interests in this matter. Such evidence should be submitted directly to chambers by e-mail at VyskocilNYSDChambers@nysd.uscourts.gov and will be kept under seal.

The Clerk of Court is respectfully requested to mail copies of this Order to (1) the *pro se* Plaintiff at the address of record and (2) Tiasha Jenkins at the same address.

SO ORDERED.

**Date: March 16, 2021
New York, NY**


**MARY KAY VYSKOCIL
United States District Judge**